

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  COMPETITIVE BIDDING	DOCKET NO. RMU-01-8
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**ORDER COMMENCING RULE MAKING**

(Issued August 3, 2001)

Pursuant to the authority of Iowa Code §§ 17A.4, 476.1, and 2001 Iowa Acts, House File 577, the Utilities Board proposes to adopt the rules attached hereto and incorporated by reference. These rules add new 199 IAC chapter 40 to reflect changes to Iowa Code chapter 476 that were enacted in House File 577; in particular, section 12 of House File 577. The reasons for proposing these rules are set forth in the attached notice of intended action.

**IT IS THEREFORE ORDERED:**

1. A rule making proceeding, identified as Docket No. RMU-01-8, is commenced for purposes of receiving comments upon the proposed rules attached to this order.

2. The Acting Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Acting Executive Secretary

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Dated at Des Moines, Iowa, this 3rd day of August, 2001.

## **UTILITIES DIVISION [199]**

### **NOTICE OF INTENDED ACTION**

Pursuant to Iowa Code sections 17A.4, 476.1, and 2001 Iowa Acts, House File 577, the Utilities Board (Board) gives notice that on August 3, 2001, the Board issued an order in Docket No. RMU-01-8, In re: Competitive Bidding, "Order Commencing Rule Making," to receive public comment on a new proposed chapter on competitive bidding to reflect changes to Iowa Code chapter 476 that were enacted in House File 577. In particular, section 12 of House File 577 allows rate-regulated public utilities that file an application to construct or lease generating plants that meet certain criteria to request that the Board specify in advance, by order issued after a contested case proceeding, the ratemaking principles that will apply when the costs of the facility are included in regulated electric rates. In making this determination, the Board is required to make two findings. The second finding is the subject of these rules.

Section 12, House File 577, requires the board to make a finding that "[t]he rate-regulated utility has demonstrated to the board that the public utility has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply. The rate-regulated public utility may satisfy the requirements of this subparagraph through a competitive bidding process, under rules adopted by the board, that demonstrate the facility or lease is a reasonable alternative to meet its electric supply needs." The Board is

proposing a new chapter, 199 IAC chapter 40, for the competitive bidding rules it is required to adopt.

As indicated by the statute, the one purpose of the proposed competitive bidding rules is to provide credible evidence in a regulatory principle proceeding that the Board can rely upon in assessing the price and terms available in the long-term purchased power market. The Board may then use this evidence in determining whether the utility's proposed build or lease arrangement for new generation is reasonable. A summary of the significant portions of the proposed chapter follows.

#### **40.1 General Information**

House File 577 does not require the utilities to comply with the Board's competitive bidding rules when conducting a solicitation for new resources either inside or outside the regulatory principle proceeding. Historically, the Board's practice has been not to require competitive bidding for purchased power solicitation. Therefore, subrule 40.1(2) makes compliance with the competitive bidding program optional. If a utility chooses, it may in a regulatory principle proceeding present other evidence to demonstrate that it has considered other sources for long-term electric supply and that the facility or lease is reasonable when compared to other feasible alternative sources of supply.

Subrule 40.1(3) provides that, unless good cause is shown for a targeted solicitation, the utility shall use an all-source solicitation process. All-source means that bids are solicited for both demand-side and supply-side resources. All-source bidding also envisions utility-owned options. Since utility-owned resources, as well as unaffiliated supply-side resources and demand-side savings, are "feasible

alternatives" to meet the utility's resource needs, these options should be considered in the acquisition process.

The proposed rules require the utility to file build or lease cost estimates. This requirement is consistent with House File 577 and the primary purpose of the rules. The statute requires the Board to make a finding that the facility or lease is a reasonable alternative to meet the utility's electric supply needs. The Board does not believe it is possible to make a reasonableness determination of the proposed facility or lease without estimating the cost of such facility or lease using the regulatory principles desired by the utility. It is also essential that this information be disclosed prior to the submission of competitor bids to avoid gaming of the new regulatory environment. For example, if the bids come in substantially higher than what the utility deemed it needed to build or lease, the utility may adjust its proposed regulatory principles to reflect costs envisioned by the higher bids and, as such, increase costs to ratepayers. Conversely, the utility could lower its build or lease expectations to meet the lowest bid, making the bidding process unfair to the bidders and discouraging participation.

#### **40.2 Competitive Resource Acquisition Procedure**

The proposed rules envision an expedited timeline with only 15 days for objection at different stages of the process and an assumption of compliance if no objection is made. The expedited timeline reflects the current need for new resources and a desire not to hold-up the process, while at the same time giving bidders sufficient time to draft their proposals.

Subrule 40.2(1) gives the utility the option of releasing its utility-build or lease cost estimates as part of its request for proposals (in which case it would be available to all bidders) or filing the estimates with the Board seven days prior to the submission of sealed bids (in which confidentiality could be requested). By publicly filing the estimates as part of its request for proposals, the utility gives bidders a price to beat that may encourage lower bids. However, the public availability of these estimates may discourage some bidders and, as such, limit participation in the process. It is essential the utility-build or lease estimates be filed prior to the submission of other bids to avoid manipulation of the proposed regulatory principles and gaming of the system as discussed earlier.

The proposed rules provide that an affiliate of the utility must also file its bid seven days in advance of the submission of other bids. This early submission avoids the possibility that the affiliate will receive information on the other bids prior to its own submission and adjust its bid accordingly. This requirement also creates the perception of fairness that may encourage participation in the bidding process. The cost of early submission to the utility's affiliate is minimal.

Subrule 40.2(1) allows the utility to submit a list of independent evaluators for review by the Board and other interested parties. Accompanying the names would be the qualifications of each evaluator, as well as disclosure of any associations the evaluator has with the utility. Parties have 15 days to object to the list. If no objections are received, the utility may choose any name off the list as its evaluator on a project-by-project basis. The utility is also required to pay the independent evaluator.

It is important to note that the independent evaluator plays only a limited role under the proposed rules. The independent evaluator's only functions are to ensure a fair bidding process and compliance with Board rules. The independent evaluator does not evaluate the bids or assist in the selection process.

After the utility files the short-list selection of potential suppliers pursuant to proposed 199 IAC 40.2(1)"I," the utility has control over the final selection and contract negotiations. This is appropriate, because the one purpose of the rules is to obtain evidence for use in a regulatory principle proceeding. The utility will have to prove the reasonableness and prudence of its final selection in a contested case proceeding.

#### **40.3 Utility-Build or Lease Cost Estimates**

The filing of utility-build or lease cost estimates was discussed above.

#### **40.4 Utility Affiliate Bids**

The proposed rules provide that the function of the independent evaluator is to ensure the bidding process is fair and complies with Board rules. The evaluator must make a certification to this effect in the acquisition process. These functions are consistent with the primary purpose of the rules. In order to ensure credible evidence in the regulatory principle proceeding, the most important aspect of the solicitation is that it is conducted in a fair and impartial basis when an affiliate is bidding.

#### **40.5 Request for Proposals (RFPs)**

The proposed rules provide for some flexibility in the competitive bidding process. Rather than prescribing weights for certain price and non-price factors, the

proposed rules allow the utilities to establish these weights as part of the RFP process. The RFP evaluation criteria and required information, as specified in the proposed rules, are essential to constructing a knowledgeable bid.

#### **40.6 Complaints**

Proposed rule 40.6 sets forth a specific complaint process. The independent evaluator is required to participate.

Pursuant to Iowa Code sections 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed rules. The statement must be filed on or before September 11, 2001, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on October 30, 2001, in the Board's hearing room at the address listed above.

These rules are intended to implement Iowa Code sections 476.1, and 2001 Iowa Acts, House File 577.

The following new chapter is proposed.

Item 1. Adopt new chapter 199 IAC chapter 40, as follows:



## CHAPTER 40

### COMPETITIVE BIDDING PROGRAMS

#### **199—40.1(467) General information.**

**40.1(1) Definitions.** The following words and terms when used in these rules will have the meaning indicated below:

"*Affiliate*" means a party that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a rate-regulated public utility.

"*Arm's Length Transaction*" is a standard of conduct under which unrelated parties, each acting in its own best interest, would carry out a particular transaction. Applied to related parties, a transaction is at arm's length if the transaction could have been made on the same terms to a disinterested third party in a bargained transaction where each party has substantially the same bargaining power.

"*Control*" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an enterprise through ownership, by contract or otherwise.

"*Demand-Side Savings or Demand-Side Management*" means an increase in energy efficiency, reduced demand or improved load factors resulting from hardware, equipment, devices, or practices that are installed or instituted at a customer facility. Demand-side management measures include modifications to existing demand-side management measures.

"*Energy Efficiency*" means a decrease in electricity or gas requirements of participating customers during any selected time period, with end-use services held constant.

"*RFP*" means request for proposals.

"*Supply-Side Resource*" means a resource that can provide electrical energy or capacity to the utility. Supply-side resources include utility-owned generating facilities, and energy or capacity purchased from other utilities and non-utilities. Supply-side resources include modifications to existing generating facilities.

"*Utility*" as defined in this chapter refers to a rate-regulated electric public utility selling to retail customers in Iowa.

**40.1(2)** *Applicability and purpose.* The rules apply to any rate-regulated electric public utility choosing to establish a competitive bidding program. The rules establish minimum requirements for bidding programs used to purchase supply or demand-side resources from other suppliers. Under these rules, bids compete not only with other bids but also with the utility's own build or lease options. Utilities maintain the right to secure or free-up electric capacity and energy through means other than a competitive bidding program.

**40.1(3)** *General guidelines for resource acquisition.* In formally soliciting bids, the utility shall use an all-source, that is, a demand-side and supply-side resource solicitation process. The all-source solicitation may include separate, parallel requests for projects that are designed to meet its resource needs. The utility may also conduct targeted solicitations upon a showing of good cause, and upon approval of the board. In determining good cause for segmenting a supply-side

solicitation, the board will consider whether the utility has in-place a board-approved energy efficiency plan as required by Iowa Code section 476.6(19) and offers tariffed rate programs giving customers the opportunity to curtail load for compensation during times of energy or capacity scarcity. The utility, as part of any solicitation under its competitive bidding program, will provide estimates of the cost the utility would incur in building or leasing the desired resource consistent with the requirements of 199 IAC 40.3.

**40.1(4) *Waivers.*** The utility may file for a waiver of any or all of these bidding program requirements. In making a decision regarding the granting of a waiver, the board shall consider, among other things, the governance of the utility, the timing of the solicitation, requirements of other regulatory bodies having jurisdiction over the utility, and whether or not an affiliate of the utility is considering bidding on the project.

**199—40.2(476) Competitive resource acquisition procedure.**

**40.2(1) *Procedures.*** The utility shall use the following procedures to competitively acquire supply-side resources and demand-side savings under its competitive bidding program. If an affiliate of the utility plans to submit bids for supply-side resources or demand-side savings it will own or operate, it shall additionally adhere to the procedures specified in 199 IAC 40.4.

a. If a utility determines that it has a need for additional supply-side resources or demand-side savings, it shall make a general public announcement indicating its needs and intentions. If an affiliate of the utility decides to bid once a request for

proposal is announced, it will alert the manager at the public utility responsible for the request for proposal and bid process of its intention.

b. The utility shall provide a statement to the board indicating whether it prefers to acquire additional supply-side resources and demand-side savings through all-source bidding or some form of segmented bidding and the justification for such preference. As part of this statement, the utility shall disclose whether a utility affiliate desires to submit bids for supply-side resources or demand-side savings it will own and/or operate in the competitive resource acquisition process. The utility shall also indicate whether it intends to publish its utility-build or lease cost estimates as part of its RFP.

c. If the utility chooses some form of segmented bidding in its statement, interested parties shall have 15 days from the filing of the statement to object in writing. Absent objection, the utility may proceed with the resource acquisition process. If objection is made, the board will decide within 15 days of the objection whether the segmented bidding should proceed.

d. If an affiliate of the utility desires to submit bids for supply-side resources, the utility shall select an independent evaluator from the board-approved list of evaluators to perform the functions specified in 199 IAC 40.4(3). The name of the independent evaluator selected for this project shall be filed with the statement to the board required in paragraph "b" of this subsection. The utility shall provide the estimated cost to utilize the services of the independent evaluator as part of its statement. The independent evaluator shall be paid by the utility.

e. If a board-approved list of independent evaluators has not been established at the time of the proposed solicitation, the utility shall file a short-list of names with the board with qualifications and potential conflicts of interest as part of its statement required in paragraph "b" of this subsection. Interested parties and the board shall have 15 days to object to any names on the short-list. Absent objection, the utility may proceed with any independent evaluator identified on the list. With objection, the board shall review the evaluators on the list and only approve names that it deems are independent of the utility and the bidding process and qualified to perform the functions of the independent evaluator as identified in 199 IAC 40.4(3). If the board determines none of the names are sufficiently independent or qualified to perform the functions of the independent evaluator, the process will begin again with a new list from the utility.

f. The utility shall publish and circulate, pursuant to standard industry practices, an RFP(s) that complies with the requirements of 199 IAC 40.5. The utility shall make the RFP(s) readily available to interested persons by conspicuously posting the request on its Internet site or other public electronic bulletin board. The RFP(s) shall be filed with the project's independent evaluator if one is required.

g. Fifteen to 30 days after publication of the RFP(s), the utility shall notice and convene a bid conference open to all potential bidders. At the bid conference, the utility shall answer questions posed by bidders concerning the RFP(s). Bidders may petition the utility to hold more than one bid conference if needed. However, in no event shall a bid conference be scheduled later than 30 days beyond the issuance of the RFP(s). The independent evaluator (if required) will attend the bid conference.

h. At the conclusion of the bid conference(s), the utility shall publish and circulate, pursuant to standard industry practices, the date for submission of sealed bids. That date shall be no earlier than 30 days following the last bid conference.

i. If the utility chooses not to file the utility-build or lease cost estimates required by 199 IAC 40.4 with the RFP(s), it shall file such estimates with the board seven days prior to the deadline for other bidders.

j. If an affiliate of the utility desires to submit a bid for supply-side resources or demand-side savings it will own or operate, it shall submit its bid to the independent evaluator, the board, and the utility seven days prior to the deadline for other bidders.

k. After the close of the deadline for the submission of bids, the utility shall publicly open the sealed bids and shall then commence a review to determine whether they are responsive to the minimum bid evaluation criteria specified in the RFP(s). All responsive bids shall be evaluated in accordance with the bid evaluation criteria specified in the RFP(s).

l. Upon completing its evaluation, the utility shall file with the board a short list of bidders whose bids it deems are most reasonable in meeting the resource needs of the utility. The utility's filing of its short-list selection shall include a report that is sufficiently detailed and rigorous to support those selections.

m. If an independent evaluator was required as part of the solicitation, it shall submit its certification of the fairness of the bidding process at the same time the utility submits its short list to the board.

n. Upon filing of the short list selection and certification from the independent evaluator (if required), interested parties shall have 15 days to file a complaint alleging that a bidder was excluded from the short-list due to unfair treatment, significant errors in the selection process, or other similar reasons.

o. Absent complaints regarding the short list selection, the utility may select a resource provider from the short list, choose the utility-build or lease option, or combine both options to meet its resource needs, whichever it deems is most reasonable. Final selection and contract negotiations reside solely with the utility.

**40.2(2) *Evaluation of bids.*** The evaluation of bids submitted in a competitive bidding program must be based on the criteria identified in the utility's request for proposal. Bids should compete not only with other bids but also with the utility's own build or lease options, including plant life extensions, upgrades, and modifications.

**40.2(3) *Contract negotiations.*** The utility shall negotiate all contracts. A utility may negotiate a pricing structure that is suitable for the resource, considering such factors as the reliability of the resource, need for security of performance, the availability of other means of ensuring security of performance, the nature of the resource, the level of risk, and other appropriate factors. The utility shall negotiate contract terms that appropriately allocate the risks of future fuel costs and other resource costs between the resource provider and the utility.

**40.2(4) *Utility reporting.*** The utility conducting a bid solicitation under its competitive bidding program shall submit a written report to the board within 45 days of completion of its evaluation of bids. This report shall describe in detail the evaluation of bids and the utility's comparison of the bids received to its own utility-

build or lease options. The report shall also include a copy of the utility's RFP(s), a detailed description of the utility's bid evaluation and selection process, and copies of all bids submitted to the utility in its bid solicitation.

**199—40.3(476) Utility-build or lease cost estimates.**

**40.3(1) *General requirements.*** A utility conducting a bidding program shall develop detailed cost estimates of its own build or lease options. Those options may include units jointly planned with other companies, plant upgrades or modifications, and plant extensions. The cost estimates shall be detailed and filed on both a project and per unit basis.

**40.3(2) *Project cost estimates.*** Project cost estimates shall be current and based on the prices likely to be actually quoted by manufacturers and vendors of power plant equipment. The utility-build or lease option shall be structured on an incremental cost basis, including an allocation of common costs incurred for the project's development. The utility shall detail in its filing the cost allocations and methodologies used for overhead costs and any joint facilities used in its estimates.

**40.3(3) *Per unit cost estimates.*** The utility shall file estimates of per unit costs in the same measurements or units expected from other bidders on the project sufficient for the board to determine the relative costs of the utility-build or lease option versus like bids received from other bidders. The per unit cost estimates shall clearly identify the ratemaking principles used in calculating these costs.

**40.3(4) *Filing requirements.*** The utility has the option of filing the utility-build or lease cost estimates, including estimated unit costs, with the board and the independent evaluator as part of the RFP(s). Utility-build or lease cost estimates



filed as part of the RFP shall be open and available to all interested bidders on the project. If the utility-build or lease cost estimates are not included as part of the RFP, then such estimates shall be submitted to the board seven days prior to the utility receiving competitive bids for new electric capacity and energy.

**199—40.4(476) Utility affiliate bids.**

**40.4(1) General requirements.** Any bid prepared by an affiliate of the utility shall comply with the selection criteria specified in the RFP and with board rules governing affiliate transactions (199 IAC chapter 31). The utility may not give preferential treatment or consideration to a bid prepared by an affiliate of the utility. To ensure a level playing field for all bidders, the utility shall comply with its code of conduct as required by 199 IAC 40.4(2) and shall hire an independent evaluator to ensure compliance with the code of conduct prior to the drafting of the RFP.

**40.4(2) Codes of conduct.** Each utility must establish a code of conduct to ensure that all transactions between the utility and its affiliates are conducted on an arm's length basis. The utility's code of conduct shall be filed with the board prior to any solicitation under the utility's competitive bidding program. At a minimum, the utility's code of conduct shall include the following:

a. The utility shall maintain full written records and notes of all communications between the utility and the bidding affiliate and between the utility and the independent evaluator, as well as all other bid-related communications.

b. The utility shall assure that the bidding affiliate only has access to bidding information that is available to other bidders at the same time it is available to other bidders.

c. The utility's RFP(s) and evaluation team shall not share any information regarding the request for proposals, standard contract, drafts of either document, information contained in those documents, or any information about the preparation of those documents with the bidding affiliate unless and until such information is available to all other bidders in the solicitation.

d. The utility shall establish a single point of contact for each individual RFP and bidding process for all questions about bids and evaluations.

e. The utility shall keep all requests for proposals and contract drafts, related bid documents, any analyses, notes, communications, evaluations and any other written material concerning the RFP(s), standard contracts, proposals, and all other documents related to the bidding process in a secure location.

f. The utility's evaluation team members shall brief management regarding confidential information about the bidding process on a need-to-know basis only. Such briefings will not occur in general staff meetings or other group meetings.

g. The utility will make all pertinent employees aware of its procedures for confidentiality of RFP(s), standard contracts, and other documents pertinent to the bidding process that must be followed between the public utility and the bidding public utility affiliate or division.

i. The utility shall not share resources with an affiliate bidder unless such resources are also made available to other bidders.

j. The utility shall not contract for the provision of services and equipment on behalf of an affiliate bidder that are not available to other bidders.

k. The utility shall not withhold Clean Air Act emissions allowances from potential bidders to circumvent or hinder the competitive bidding process.

l. Employees of any bidding affiliate are prohibited from participating in the evaluation process.

m. All contract negotiations between the utility and the bidding affiliate shall be done in writing.

**40.4(3) *Independent evaluator.*** The utility shall use an independent evaluator if there is a likelihood that an affiliate bid may be included among the bids to be evaluated. The utility shall maintain a written record of communications and contacts with the independent evaluator.

*a. Short list of approved independent evaluators.* A board-approved list of independent evaluators shall be compiled using the following process:

(1) The utility shall file with the board a list with qualifications of at least five independent evaluators it deems would be appropriate in auditing the bidding and selection process under its competitive bidding program. The utility shall reveal all associations each evaluator on the list has with the utility or any of its affiliates, divisions, or subsidiaries that could create a potential conflict of interest.

(2) Upon the utility's filing of the list, any interested party shall have 15 days to object to either the independence or qualifications of one or more evaluators included on the list.

(3) After the time of objection has passed, the board shall approve a final list of potential evaluators that it deems are independent of the competitive bidding

process and qualified to perform the functions of the independent evaluator as specified in paragraph "b" of this subsection.

*b. Functions of the independent evaluator.* The functions of the independent evaluator shall include the following:

(1) Determine whether the utility complied with its code of conduct as required by subrule 40.4(2).

(2) Determine whether the utility's RFP complies with the minimum requirements specified in 199 IAC 40.5.

(3) Determine whether the utility treated and considered its affiliate's bid in the same manner it treated and considered other bids intended to meet the same resource needs.

(4) Determine if the transaction provides the utility's affiliate any unfair competitive advantage by virtue of its affiliation or association with the utility.

(5) Certify with the board at the time the utility files its short-list of potential providers that the process was fair and complied with the utility's code of conduct as required by subrule 40.4(2).

(6) Any other determinations or certifications the evaluator deems relevant.

**199—40.5(476) Request for proposals (RFPs).** The request for proposals shall clearly set forth the eligibility and evaluation criteria and shall specify the weight to be given to any price or non-price selection criteria.

**40.5(1) Minimum evaluation criteria.** The price and non-price factors selected for evaluation and the weightings attached to each can reasonably vary from utility to

utility and project to project. However, the following factors shall be considered for each supply-side project solicitation:

- a. Level and schedule of required capacity and energy payments;
- b. Status of project development;
- c. System fuel diversity;
- d. Reliability and performance measures;
- e. Firm versus variable or indexed pricing;
- f. Dispatchability;
- g. Project location and effect on the transmission grid;
- h. Use of Iowa fuels, manpower, and other state resources;
- i. Benefits to be derived by the industries and communities associated with a particular project;
- j. Demonstrated financial viability of the project and the developer;
- k. Developer's prior experience in the field.

**40.5(2)** *Contents of the request(s) for proposals.* The RFP(s) shall contain sufficient information to apprise potential bidders of the utility's criteria for evaluation of bids received as part of the competitive resource acquisition process specified in IAC 199 40.2. This information shall include the bid evaluation criteria, including the weights to be assigned to each criterion, that the utility plans to use in ranking the bids received. Specific information associated with the bid evaluation criteria provided by the utility shall include, but not be limited to, the following:

- a. Preferred fuel types;

- b. The extent to which additional supply-side resources or demand-side savings must be located in certain geographic areas due to transmission constraints, local load condition, permitting constraints, or other factors;
- c. Important transmission constraints on the utility's system and on adjoining utility systems, and reasonable estimates of transmission costs for supply-side resources located in different areas;
- d. The extent and degree to which supply-side resources must be dispatchable, including the requirement, if any, that supply-side resources be able to operate under automatic dispatch control;
- e. The customer class or classes from which the utility desires to acquire demand-side savings;
- f. The methodology proposed by the utility to monitor and evaluate the benefits and costs of demand-side savings and the quantity of demand-side savings sought from each class;
- g. Supply-side resource reliability requirements and objectives, and the method(s) that will be used to measure their achievement, including the contribution of individual supply-side resources;
- h. The desirability of firm pricing and contract terms of various durations.
- i. The minimum bid evaluation criteria that must be met by a bidder for a bid to be considered responsive to the RFP(s). The utility shall be reasonable in its specification of minimum bid evaluation criteria and shall not artificially limit the pool of bidders through unreasonable or excessively restrictive minimum criteria.

j. The utility's proposed standard contract(s) for the acquisition of supply-side resources and demand-side savings.

**199—40.6(476) Complaints.** The board shall resolve disputes between a utility and a bidder that may arise as a result of implementation of the bidding process. The third-party evaluator shall participate by providing information on the bidding process including the selection of the winning bid. A complaint by a bidder concerning the utility's decisions on the acquisition of resources in a solicitation must be filed within 15 days of the filing of the short-list selection with the board.

This chapter is intended to implement Iowa Code section 476.1 and 2001 Iowa Acts, House File 577.

August 3, 2001

/s/ Allan T. Thoms

Allan T. Thoms  
Chairperson